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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:

US Airways, Inc.,

Respondent.

AWA No. 08-0049

**CONSENT DECISION AS
TO RESPONDENT
US AIRWAYS, INC.**

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) (the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. §§ 1.1-3.142) (the "Regulations"). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent US Airways, Inc., admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding, to the entry of this decision.

The complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Respondent US Airways, Incorporated ("Respondent"), is a Delaware corporation whose principal place of business is: US Airways, Inc., 111 West Rio Salado Parkway, Tempe, Arizona 85281.

2. Respondent's agent for service of process is: US Airways, Inc., c/o CT Corporation System, 2394 E Camelback Road, Phoenix, Arizona 85016.

3. Respondent, at all material times mentioned in the complaint, was operating as a carrier, as defined in the Act and Regulations.

4. At all material times mentioned here, Respondent has held Animal Welfare Act license number 52-T-0101, issued to "U S Airways Inc."

CONCLUSION

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

ORDER



1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations.


2. In particular, Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating section 3.19(b)(1) of the Regulations, which prohibits placing any primary enclosure containing a dog or cat "on unattended conveyor belts, or on elevated conveyor belts, such as baggage claim conveyor belts and inclined conveyor ramps that lead to baggage claim areas, at any time; except that a primary enclosure may be placed on inclined conveyor ramps used to load and unload aircraft if an attendant is present at each end of the conveyor belt" (9 C.F.R. § 3.19(b)(1)), and section 3.17(b) of the Regulations, which, amongst other things, requires during air transportation of dogs or cats the observation by the carrier of the dogs or cats "as frequently as circumstances allow" (9 C.F.R. § 3.17(b)).

3. Respondent US Airways, Inc., a Delaware corporation, is assessed a civil penalty in the amount of \$9,500, of which \$2,750 shall be paid by a certified check or money order made payable to the Treasurer of the United States. Pursuant to the petition filed in In re US Airways, Inc., et al., No. 04-13819 (Bankr. E.D. Va., filed Sept. 12, 2004), Respondent is not required to make payment on the remaining \$6,750.

4. The provisions of this order shall become effective on the first day after service of this decision on the respondent.

5. Copies of this decision shall be served upon the parties.

  4/15/08
Maren Matal
Assistant General Counsel
Attorney for US Airways, Inc.
RESPONDENT


Babak A. Rastgoufard
Office of the General Counsel
United States Department of Agriculture
ATTORNEY FOR COMPLAINANT

Done at Washington, D.C.
this 18th day of April, 2008



Administrative Law Judge